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United States
Office of Personnel Management
Washington, D.C. 20415

In Reply Refer To: Your Reference:

January 31, 1983

MEMORANDUM FOR THE PRESIDENT

From: Donald J. Devine
Director
Office of Personnel Management

Subject: OPTIONS FOR REFORM OF THE COMBINED FEDERAL CAMPAIGN (CFC)

I. ACTION FORCING EVENTS

* The timely action cycle for the 1983 CFC began December 1, 1982. We are already two months behind
* Employee pressure is building for nationwide boycotts next year if advocacy groups are included

II. BACKGROUND

* Employee boycotts of the CFC were averted this year by strong efforts by responsible Union leaders and local Federal officials on the basis of Administration pledges to reform the next CFC; aversion will not be possible in the coming year
* In the 1982 CFC, even with boycotts and employee resistance, overall employee participation declined slightly and contributions increased slightly
* The overwhelming majority of employees give to health and welfare charities, while a small minority of employees give to advocacy groups
* Many more advocacy groups seek admission to the 1983 CFC
* Unions, Federal Executive Boards, and managers all strongly favor focusing the CFC on health and welfare charities, while "non-traditional" advocates favor no exclusions

III. OPTIONS

Option 1. Continue the Status Quo.

Description: Retain the Executive Order as is. Advocacy groups, as well as health and welfare agencies, may continue to solicit through the CFC.

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Advantages:
* Avoids lawsuits over exclusion
* Gives appearance of freedom-of-choice
* Pleases advocacy and other non-traditional agencies

Disadvantages:
* Presidential pledge unfulfilled
* Many new advocacy groups will join: National Association for Advancement of White People has applied
* Unions and employees will boycott
* Federal managers will resist administering CFC
* Displeases health and welfare charities, United Ways, and Washington Post
* Fails to focus Government support on health and welfare needs and programs that lessen the the burdens of Government
* Raises charge that taxpayers pay for fundraising for advocacy groups.

Option 2. Limit Eligibility to Health and Welfare Charities

Description: Participation in the CFC would be limited to health and welfare charities.

Advantages:
* President fulfills pledge
* Boycotts averted
* Legally defensible
* CFC focuses on lessening burdens of Government, building safety net
* Unions will strongly support
* Local officials and Washington Post support
* Health and welfare agencies strongly support
* Government resources not used to fund advocacy groups
* Lawsuits by advocacy groups on "clean" legal issue of focus on health and welfare

Disadvantages:
* Advocacy groups will sue
* Appearance of less freedom-of-choice
* Some media will oppose

Option 3. Limit Full Eligibility to Health and Welfare Charities; Permit Write-in Gifts to Other Philanthropies.

Description: National eligibility in the CFC solicitation would be limited to health and welfare charities Local donors would be permitted, however, to earmark gifts to any nonprofit human service agency (including organizations not participating in the CFC and therefore not listed in brochures) by a write-in mechanism on the donor card.

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Advantages:

* President arguably fulfills pledge
* Employees have more freedom-of-choice
* Unions might not boycott
* Probably satisfies health and welfare agencies

Disadvantages:

* Advocacy groups will sue on stronger legal grounds than with Option 2, colorably claiming that they are admitted but with 2d class 1st Amendment rights
* Administratively burdensome
* Still displeases advocacy groups, with some support, for not being equally open to all
* Government resources still subsidize fundraising for advocacy groups

IV. RECOMMENDATION

The status quo is untenable and the President is on record saying so. Under either Option 2 or Option 3 the legal bullet must be bitten; Option 2 presents the cleaner legal position. Option 3 generates new legal exposure by "admitting" advocacy groups sub silentio while denying them the right to "speak" through CFC brochures. The key distinction between this half-step and Option 1 is that here advocacy groups are not allowed to "speak." Simple exclusion of non-health-and-welfare groups may be easier to defend than admission with unequal status. Option 3 also raises many questions of administration that might cost more than it will gain cosmetically. Accordingly, I recommend Option 2.

V. DECISION

(Draft Executive Orders for Options 2 and 3 are attached).

Option 1 _____ Option 2 _____ Option 3 _____

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(OPTION 2)

Draft

Executive Order

CHARITABLE FUND-RAISING

By the authority vested in me as President by the Constitution of the United States of America, and in order to lessen the burdens of government and of local communities in meeting needs of human health and welfare, it is hereby ordered as follows:

Section 1. Executive Order 12353 is amended as follows:

(a) In Section 1 delete "such national" and "and such other national voluntary agencies as may be appropriate".

(b) In Section 2 insert "(a)" after the Section number and add the following new subsections:

"(b) In establishing those criteria, the Director shall be guided by the following principles and policies:

"(1) The objectives of the Combined Federal Campaign are to lessen the burdens of government and of local communities in meeting needs of human health and welfare; to provide a convenient channel through which Federal public servants may contribute to these efforts; to minimize or eliminate disruption of the Federal workplace and costs to Federal taxpayers that such fund-raising may entail; and to avoid the reality and appearance of the use of Federal resources in aid of fund-raising for political activity or advocacy of public policy, lobbying or philanthropy of any kind that does not directly serve needs of human health and welfare.

"(2) To meet these objectives, eligibility for participation in the Combined Federal Campaign shall be limited to voluntary, charitable, health and welfare agencies that provide or substantially support direct health and welfare services to individuals or their families. Such direct health and welfare services must be available to Federal employees in the local campaign solicitation area, unless they are rendered to needy persons overseas. Such services must benefit human beings, whether children, youth, adults, the aged, the ill and infirm, or the mentally or physically handicapped. Such services must consist of care, research or education in the fields of human health or social adjustment and rehabilitation; relief of victims of natural disasters and other emergencies; or assistance to those who are impoverished and in need.

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"(3) Agencies that seek to influence the outcomes of elections or the determination of public policy through political activity or advocacy, lobbying, or litigation on behalf of parties other than themselves shall not be deemed charitable health and welfare agencies and shall not be eligible to participate in the Combined Federal Campaign.

"(4) International organizations that provide health and welfare services overseas, and that meet the eligibility criteria except for the local services criterion, shall be eligible to participate in each local solicitation area of the Combined Federal Campaign.

"(5) Local voluntary, charitable, health and welfare agencies that are not affiliated with a national agency or federation but that satisfy the eligibility criteria set forth in this Order and by the Director, shall be permitted to participate in the Combined Federal Campaign in the local solicitation areas in which they provide or substantially support direct health and welfare services."

Section 2. All rules, regulations, and directives continued or issued under Executive Order No. 12353 shall continue in full force and effect until revoked or modified under the provisions of this Order.

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Section 1. Executive Order 12353 is amended as follows:

(a) In Section 1 delete "such national" and "and such other national voluntary agencies as may be appropriate".

(b) In Section 2 insert "(a)" after the Section number and add the following new subsections:

"(b) In establishing those criteria, the Director shall be guided by the following principles and policies:

"(1) Eligibility for participation in the Combined Federal Campaign shall be limited to voluntary, charitable agencies whose principal purpose is to provide or substantially support direct health and welfare services to individuals and families; provided, however, that, subject to such regulations as the Director may prescribe, Federal employees and members of the uniformed services shall be permitted to designate gifts to voluntary human-service agencies not participating in the Combined Federal Campaign.

"(2) Where required by this Order, direct health and welfare services must be available to Federal employees in the local campaign solicitation area, unless they are rendered to needy persons overseas. Such services must benefit human beings, whether children, youth, adults, the aged, the ill and infirm, or the mentally or physically handicapped. Such services must consist of care, research or education in the fields of human health or social adjustment and rehabilitation; relief of victims of natural disasters and other emergencies; or assistance to those who are impoverished and in need.

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"(3) International organizations that provide health and welfare services overseas, and that meet the eligibility criteria except for the local services criterion, shall be eligible to participate in each local solicitation area of the Combined Federal Campaign."

(c) In Section 6, in the first sentence thereof, delete "such" and the period, and add "including voluntary human-service agencies not participating in the Combined Federal Campaign."

Section 2. All rules, regulations, and directives continued or issued under Executive Order No. 12353 shall continue in full force and effect until revoked or modified under the provisions of this Order.

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